

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 IO-13 ISO-00 FEA-01 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05
SS-15 STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02
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TREASURY:B.BARREDA/E.BARBER
CIEP: D.EVANS
STR:S.LANDE/R.MATTHEISEN
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TAGS: ETRD, GATT, PO, EEC

SUBJECT: EC-PORTUGAL INTERIM AGREEMENT WORKING PARTY

1. THE TRADE POLICY STAFF COMMITTEE APPROVED THE FOL-
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LOWING POSITION PAPER (TPSC 77-47) FOR THE SUBJECT
MEETING. A COPY OF THE APPROVED PAPER IS BEING POUCHED.

2. PROBLEM. A GATT WORKING PARTY IS SCHEDULED TO MEET
JUNE 22 TO EXAMINE THE SEPTEMBER 20, 1976 INTERIM AGREE-
MENT BETWEEN PORTUGAL AND THE EUROPEAN COMMUNITY (EC).
THE UNITED STATES PREVIOUSLY SUBMITTED QUESTIONS (TPSC

77-3) TO THE PARTIES TO THE INTERIM AGREEMENT. THE EC AND PORTUGAL RESPONDED IN L/4501 TO THE QUESTIONS THE UNITED STATES AND OTHER CONTRACTING PARTIES POSED. THE U.S. DELEGATION TO THE WORKING PARTY NEEDS GUIDANCE.

3. RECOMMENDATIONS. (A) THE U.S. DELEGATION SHOULD EXPRESS SUPPORT FOR THE CONTINUING DEVELOPMENT OF CLOSER ECONOMIC TIES BETWEEN PORTUGAL AND THE EC.

(B) THE U.S. DELEGATION NONETHELESS SHOULD EXPLAIN THE U.S. BELIEF THAT, IN APPARENT CONTRAVENTION OF GATT ARTICLE XXIV:5(B), THE RULES OF ORIGIN APPLYING TO THE EC-PORTUGAL AGREEMENTS ARE MORE STRINGENT THAN THE ORIGINAL

EFTA RULES AND MORE STRINGENT THAN NECESSARY TO PREVENT TRADE DEFLECTION.

(C) THE U.S. DELEGATION SHOULD MENTION THAT ONLY 5.4 PERCENT OF PORTUGAL'S AGRICULTURAL EXPORTS ENTER THE EC DUTY FREE AND SHOULD STATE THAT THE UNITED STATES BELIEVES THAT THIS VIOLATES THE REQUIREMENTS FOR A FREE TRADE AREA CONTAINED IN ARTICLE XXIV:8(B).

(D) THE U.S. DELEGATION MAY MENTION THAT ACCORDING TO THE REPLY TO QUESTION 4(2), THE PRODUCTS AT PRESENT SUBJECT TO THE SURCHARGE AND THE DEPOSIT SCHEME WILL BE EXEMPTED THEREFROM UPON THE ENTRY INTO FORCE OF THE MEASURES PROVIDED FOR IN ARTICLE 6 OF THE INTERIM AGREEMENT, AND MAY STATE THAT THIS PROVISION SEEMS TO DISCRIMINATE AGAINST THIRD LIMITED OFFICIAL USE

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COUNTRIES. IT IS THE U.S. VIEW THAT MEASURES TAKEN FOR BALANCE-OF-PAYMENTS REASONS SHOULD BE APPLIED EQUALLY TO THE PRODUCTS OF ALL COUNTRIES.

4. BACKGROUND. TPSC 77-3 PROVIDES BACKGROUND INFORMATION ON THE 1972 EC-PORTUGAL AGREEMENT AND THE 1976 INTERIM AGREEMENT.

DURING THE GATT WORKING PARTY DISCUSSION OF THE 1972 AGREEMENT, SOME CONTRACTING PARTIES REMARKED THAT THE RULES OF ORIGIN IN THE AGREEMENT WERE MORE RESTRICTIVE THAN THOSE OBTAINING UNDER THE EFTA CONVENTION. IN QUESTION ONE IN L/4501, A CONTRACTING PARTY AGAIN EXPRESSED THE VIEW THAT THE EC-PORTUGAL AGREEMENTS'S RULES OF ORIGIN WERE MORE RESTRICTIVE THAN THE EFTA RULES. DESPITE THE DISCLAIMER OF THE PARTIES TO THE AGREEMENT, THE RULES DO SEEM TO BE MORE RESTRICTIVE. ACCORDING TO THE EFTA RULES, GOODS NOT WHOLLY PRODUCED IN THE FREE TRADE AREA ARE ACCEPTED FOR AREA TARIFF TREATMENT IF THEY HAVE BEEN PRO-

DUCED WITHIN THE AREA OF THE ASSOCIATION AND THE VALUE OF ANY MATERIALS IMPORTED FROM OUTSIDE THE AREA WHICH HAVE BEEN USED AT ANY STAGE OF PRODUCTION OF THE GOODS DOES NOT EXCEED 50 PERCENT OF THE EXPORT PRICE OF THE GOODS. TO QUALIFY AS ORIGINATING IN PORTUGAL OR THE EC UNDER THE EC-PORTUGAL AGREEMENT, PRODUCTS NOT WHOLLY OBTAINED IN THE EC OR PORTUGAL MAY BE MADE OF PRODUCTS FROM OUTSIDE THE COMMUNITY OR PORTUGAL ONLY IF THOSE PRODUCTS HAVE UNDERGONE SUFFICIENT WORKING OR PROCESSING TO RECEIVE A CLASSIFICATION UNDER A TARIFF HEADING OTHER THAN THAT COVERING EACH OF THE PRODUCTS WORKED OR PROCESSED.

THE ABOVE IS PERHAPS THE MOST IMPORTANT EXAMPLE OF HOW THE RULES OF ORIGIN IN THE EC-PORTUGAL AGREEMENT ARE MORE STRINGENT THAN THOSE IN THE EFTA CONVENTION. HOWEVER, THE EC-PORTUGAL RULES IN GENERAL, ARE MORE DETAILED AND STRICTER THAN EFTA'S. ONE CAN ARGUE, THEN, THAT THE LIMITED OFFICIAL USE

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EC-PORTUGAL RULES OF ORIGIN CONTRAVENE GATT ARTICLE XXIV:5(B).

THE REPLY TO QUESTION 3(B) IN L/4501 INDICATES THAT ONLY 5.4 PERCENT OF PORTUGAL'S AGRICULTURAL EXPORTS TO THE EC ENTER DUTY FREE. THE INTERIM AGREEMENT WILL ADD ONLY 0.2 PERCENT TO THE PERCENTAGE OF AGRICULTURAL GOODS ENTERING DUTY FREE. DOCUMENT L/4501 DOES NOT PROVIDE A SIMILAR PERCENTAGE FOR EC AGRICULTURAL EXPORTS TO PORTUGAL. THE VERY SMALL PERCENTAGE OF DUTY-FREE AGRICULTURAL EXPORTS FROM PORTUGAL TO THE EC SEEMS TO BE CONTRARY TO GATT ARTICLE XXIV:8(B) WHICH REQUIRES THE ELIMINATION OF DUTIES ON SUBSTANTIALLY ALL TRADE BETWEEN THE PARTIES OF A FREE TRADE AREA. CHRISTOPHER

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